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AKC

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JUN 03 2004

Office of the Director  
Group 3600

In re Application of  
Gerald Villeneuve  
Application No. 09/975,015  
Filed: October 12, 2001  
For: CLIPBOARD WITH DUAL CLAMPING  
MEMBERS

DECISION ON PETITION  
TO WITHDRAW THE  
HOLDING OF ABANDONMENT

This is in reply to applicant's communication, filed in the United States Patent and Trademark Office on March 29, 2004. This communication is being treated as a renewed petition to withdraw the holding of abandonment.

The petition is **GRANTED**.

A review of the file record reveals that an Office action was mailed to applicant at the address of record on October 3, 2002. Since a response to the October 3, 2002 Office action has not been received, the application was held abandoned and a Notice of Abandonment was mailed May 7, 2003.

There is a strong presumption that mail properly addressed and delivered to the United States Postal Service was in fact delivered to the addressee. An allegation that an Office communication was not received may be considered in a formal petition for the withdrawal of the holding of abandonment, in accordance with *Delgar Inc. v. Schuyler*, 172 USPQ 513. However, the presumption that the Office communication was delivered to applicant may be overcome by a showing that the communication was not, in fact, received as indicated below.

Applicant's (in this case the inventor, Mr. Gerald Villeneuve) statements of non-receipt should include a statement by him, and by anyone else at applicant's correspondence address, who would have handled the Office communication, and include any available documentary evidence of mail received, covering a reasonable period after the date of the Office communication, to show non-receipt of the communication in question. Copies of records on which the receipt date of the Office communication would have been entered had it been received, (e.g., a copy of the outside of the file maintained by applicant), are required if available. Also, a showing of any docket records *or other method* which would serve as a reminder of a response due date should be submitted. Whatever method applicant uses as a reminder, and submits in response to this decision should be adequately explained. Also, a statement is required that a search of the file maintained by applicant, or any other location where correspondence from the USPTO is kept, failed to find a copy of the Office communication in question. Finally, applicant must state that he was in fact at the correspondence address of record at the time the Office action would have been received.

Any such exhibits should be submitted as part of statement(s) showing that no Office communication was ever received.

The renewed petition includes a signed statement by Mr. Villeneuve and his wife that the Office action was not received at the correspondence address at the time the action was mailed. Applicant further states that he does not keep written records for incoming mail or any flag system advising when correspondence is due. Applicant attests to the fact that a search was conducted of a special folder containing documents for this patent [sic] and that the document mailed October 3, 2002 was not found. Applicant's statements regarding the non-receipt of the Office action mailed October 3, 2002 are acceptable.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status, and to redate and remail the Office Action of October 3, 2002 based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.

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RAR/mjz: 6/2/04